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<b>Message:</b>  Enclosed herewith: <ul style="list-style-type: none"><li>• Transmittal Document; and</li><li>• Appeal Brief.</li></ul>	
<b>Re:</b> Application No. 09/998,395 Attorney Docket No.: AUS920010916US1	
<b>DATE:</b> Monday, May 23, 2005	
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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Awada et al.

Serial No.: 09/998,395

Filed: November 15, 2001

For: System and Method for  
Mitigating the Mobile Phone Nuisance  
Factor

35525

PATENT TRADEMARK OFFICE  
CUSTOMER NUMBER§  
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Group Art Unit: 2645

Examiner: Gauthier, Gerald

Attorney Docket No.: AUS920010916US1

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**Docket No. AUS920010916US1**

**PATENT**

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**Factor**

www.ck12.org

Group Art Unit: 2645

**Examiner: Gauthier, Gerald**

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**By:**

Carrie Parker  
Carrie Parker

**APPEAL BRIEF (37 C.F.R. 41.37)**

**This brief is in furtherance of the Notice of Appeal, filed in this case on March 24, 2005.**

The fees required under § 41.20(B)(2), and any required petition for extension of time for filing this brief and fees therefore, are dealt with in the accompanying TRANSMITTAL OF APPEAL BRIEF.

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(Appeal Brief Page 1 of 31)  
Awada et al. - 09/998.395

**REAL PARTY IN INTEREST**

The real party in interest in this appeal is the following party: International Business Machines Corporation.

**RELATED APPEALS AND INTERFERENCES**

With respect to other appeals or interferences that will directly affect, or be directly affected by, or have a bearing on the Board's decision in the pending appeal, there are no such appeals or interferences.

**STATUS OF CLAIMS**

**A. TOTAL NUMBER OF CLAIMS IN APPLICATION**

Claims in the application are: 1-28

**B. STATUS OF ALL THE CLAIMS IN APPLICATION**

1. Claims canceled: 11, 17, 20, 23 and 26
2. Claims withdrawn from consideration but not canceled: NONE
3. Claims pending: 1-10, 12-16, 18, 19, 21, 22, 24, 25, 27 and 28
4. Claims allowed: NONE
5. Claims rejected: 1-10, 12-16, 18, 19, 21, 22, 24, 25, 27 and 28
6. Claims objected to: NONE

**C. CLAIMS ON APPEAL**

The claims on appeal are: 1-10, 12-16, 18, 19, 21, 22, 24, 25, 27 and 28

**STATUS OF AMENDMENTS**

No amendments were made after the Final Office Action dated February 24, 2005.

### **SUMMARY OF CLAIMED SUBJECT MATTER**

#### **A. CLAIM 1 - INDEPENDENT**

The subject matter of claim 1 is directed to a method in a mobile communications device (300, 420, 430, 440, 450, 510, 530, 560) for activating a profile. An external control signal transmitted from a transmitter (112, 410) in a location (400) is detected (see *Specification*, page 11, lines 9-10 and page 14 lines 20-24; **Figure 4**; and step 610 of **Figure 6**). The external control signal contains an encoded command (see *Specification*, page 4, lines 8-10). The encoded command is decoded to define features in the profile (see *Specification*, page 4, lines 10-13 and page 11, line 12-16). The features are identified by a group of settings contained in the encoded command and the features were not defined in the profile prior to detecting the external control signal (see *Specification*, page 12, line 24 through page 13, line 6 and page 14, lines 24-26; and step 620 of **Figure 6**). The profile is activated (see *Specification*, page 14 lines 26-28 and step 630 of **Figure 6**). The features in the profile control attributes of the mobile communication device. The profile implements a policy of mobile communications device usage for the location and replaces a current profile for the mobile communications device (see *Specification*, page 11, line 17 through page 12, line 32). The profile is maintained only while the external control signal continues to be detected (see *Specification*, page 13, lines 7-14 and page 15, lines 4-16; and **Figures 4 and 7**).

#### **B. CLAIM 5 - INDEPENDENT**

The subject matter of claim 5 is directed to a method in a mobile communications device (300, 420, 430, 440, 450, 510, 530, 560) for activating a profile when the mobile communications device is located in a location (400) with a policy for mobile communications device usage (see *Specification*, page 13, lines 7-14, page 13, line 30 through page 14, line 3, and page 15, lines 4-16). An external control signal is detected in the location (steps 610 and 710) (see *Specification*, page 14, lines 20-24 and page 15, lines 4-16; and **Figures 4, 6 and 7**). The external control signal contains an encoded command that identifies settings for the mobile communications device (see *Specification*, page 12, lines 27-32). The settings are identified in the external control signal to form identified settings (see *Specification*, page 14, lines 24-28). The identified settings define



features in the profile that comply with the policy for mobile communications device usage for the location. The profile is activated with the identified settings to form an active profile (see *Specification*, page 4, lines 10-13). The features in the profile control attributes of the mobile communications device and were not defined in the profile prior to detecting the external control signal (see *Specification*, page 11, line 17 through page 13, line 6 and page 14, lines 24-26). The active profile is maintained while the external control signal is detected (see *Specification*, page 13, lines 7-14 and page 15, lines 4-16; and **Figures 4 and 7**).

### C. CLAIM 18 - INDEPENDENT

The subject matter of claim 18 is directed to a mobile communications device (300, 420, 430, 440, 450, 510, 530, 560) comprising a bus system, a communications unit, a memory including a set of instructions, and a processing unit. The communication unit, the memory, and the processing unit are connected to the bus system. The processing unit executes the set of instructions to detect an external control signal transmitted from a transmitter (112, 410) in a location (400) (see *Specification*, page 11, lines 9-10 and page 14 lines 20-24; **Figure 4**; and step 610 of **Figure 6**). The external control signal contains an encoded command (see *Specification*, page 4, lines 8-10). The processing unit executes the set of instructions to decode the encoded command to define features in the profile (see *Specification*, page 4, lines 10-13 and page 11, line 12-16). The features are identified by a group of settings contained in the encoded command and the features were not defined in the profile prior to detecting the external control signal (see *Specification*, page 12, line 24 through page 13, line 6 and page 14, lines 24-26; and step 620 of **Figure 6**). The processing unit executes the set of instructions to activate the profile (see *Specification*, page 14 lines 26-28 and step 630 of **Figure 6**). The features in the profile control attributes of the mobile communication device. The profile implements a policy of mobile communications device usage for the location and replaces a current profile for the mobile communications device (see *Specification*, page 11, line 17 through page 12, line 32). The processing unit executes the set of instructions to maintain the profile only while the external control signal continues to be detected (see *Specification*, page 13, lines 7-14 and page 15, lines 4-16; and **Figures 4 and 7**).

**D. CLAIM 19 – INDEPENDENT**

The subject matter of claim 19 is directed to a mobile communications device (300, 420, 430, 440, 450, 510, 530, 560) comprising a bus system, a communications unit, a memory including a set of instructions, and a processing unit. The communication unit, the memory, and the processing unit are connected to the bus system. The processing unit executes the set of instructions to detect an external control signal in a location (400) (steps 610 and 710) (see *Specification*, page 14, lines 20-24 and page 15, lines 4-16; and **Figures 4, 6 and 7**). The external control signal contains an encoded command that identifies settings for the mobile communications device (see *Specification*, page 12, lines 27-32). The processing unit executes the set of instructions to identify the settings in the external control signal to form identified settings (see *Specification*, page 14, lines 24-28). The identified settings define features in the profile that comply with the policy for mobile communications device usage for the location. The processing unit executes the set of instructions to activate the profile with the identified settings to form an active profile (see *Specification*, page 4, lines 10-13). The features in the profile control attributes of the mobile communications device and were not defined in the profile prior to detecting the external control signal (see *Specification*, page 11, line 17 through page 13, line 6 and page 14, lines 24-26). The processing unit executes the set of instructions to maintain the active profile while the external control signal is detected (see *Specification*, page 13, lines 7-14 and page 15, lines 4-16; and **Figures 4 and 7**).

**E. CLAIM 21 - INDEPENDENT**

The subject matter of claim 21 is directed to a mobile communications device (300, 420, 430, 440, 450, 510, 530, 560) for activating a profile. The mobile communications device provides a means for detecting an external control signal transmitted from a transmitter (112, 410) in a location (400) (see *Specification*, page 11, lines 9-10 and page 14 lines 20-24; **Figure 4**; and step 610 of **Figure 6**). The external control signal contains an encoded command (see *Specification*, page 4, lines 8-10). The mobile communications device provides a means for decoding the encoded command to define features in the profile (see *Specification*, page 4, lines 10-13 and page 11, line 12-16). The features are identified by a group of settings contained in the encoded command and the features were not defined in the profile prior to detecting the external control

signal (see *Specification*, page 12, line 24 through page 13, line 6 and page 14, lines 24-26; and step 620 of **Figure 6**). The mobile communications device provides a means for activating the profile (see *Specification*, page 14 lines 26-28 and step 630 of **Figure 6**). The features in the profile control attributes of the mobile communication device. The profile implements a policy of mobile communications device usage for the location and replaces a current profile for the mobile communications device (see *Specification*, page 11, line 17 through page 12, line 32). The mobile communications device provides a means for maintaining the profile only while the external control signal continues to be detected (see *Specification*, page 13, lines 7-14 and page 15, lines 4-16; and **Figures 4 and 7**).

#### **F. CLAIM 22 - INDEPENDENT**

The subject matter of claim 22 is directed to a mobile communications device (300, 420, 430, 440, 450, 510, 530, 560) for activating a profile when the mobile communications device is located in a location (400) with a policy for mobile communications device usage (see *Specification*, page 13, lines 7-14, page 13, line 30 through page 14, line 3, and page 15, lines 4-16). The mobile communications device provides a means for detecting an external control signal is detected in the location (steps 610 and 710) (see *Specification*, page 14, lines 20-24 and page 15, lines 4-16; and **Figures 4, 6 and 7**). The external control signal contains an encoded command that identifies settings for the mobile communications device (see *Specification*, page 12, lines 27-32). The mobile communications device provides a means for identifying the settings in the external control signal to form identified settings (see *Specification*, page 14, lines 24-28). The identified settings define features in the profile that comply with the policy for mobile communications device usage for the location. The mobile communications device provides a means for activating the profile with the identified settings to form an active profile (see *Specification*, page 4, lines 10-13). The features in the profile control attributes of the mobile communications device and were not defined in the profile prior to detecting the external control signal (see *Specification*, page 11, line 17 through page 13, line 6 and page 14, lines 24-26). The mobile communications device provides a means for maintaining the active profile while the external control signal is detected (see *Specification*, page 13, lines 7-14 and page 15, lines 4-16; and **Figures 4 and 7**).

**G. CLAIM 24 - INDEPENDENT**

The subject matter of claim 24 is directed to a computer program product on a computer readable medium for activating a profile. The computer program product provides instructions for detecting an external control signal transmitted from a transmitter (112, 410) in a location (400) (see *Specification*, page 11, lines 9-10 and page 14 lines 20-24; Figure 4; and step 610 of Figure 6). The external control signal contains an encoded command (see *Specification*, page 4, lines 8-10). The computer program product provides instructions for decoding the encoded command to define features in the profile (see *Specification*, page 4, lines 10-13 and page 11, line 12-16). The features are identified by a group of settings contained in the encoded command and the features were not defined in the profile prior to detecting the external control signal (see *Specification*, page 12, line 24 through page 13, line 6 and page 14, lines 24-26; and step 620 of Figure 6). The computer program product provides instructions for activating the profile (see *Specification*, page 14 lines 26-28 and step 630 of Figure 6). The features in the profile control attributes of the mobile communication device (300, 420, 430, 440, 450, 510, 530, 560). The profile implements a policy of mobile communications device usage for the location and replaces a current profile for the mobile communications device (see *Specification*, page 11, line 17 through page 12, line 32). The computer program product provides instructions for maintaining the profile only while the external control signal continues to be detected (see *Specification*, page 13, lines 7-14 and page 15, lines 4-16; and Figures 4 and 7).

**H. CLAIM 25 - INDEPENDENT**

The subject matter of claim 25 is directed to a computer program product on a computer readable medium for activating a profile when a mobile communications device (300, 420, 430, 440, 450, 510, 530, 560) is located in a location (400) with a policy for mobile communications device usage (see *Specification*, page 13, lines 7-14, page 13, line 30 through page 14, line 3, and page 15, lines 4-16). The computer program product provides instructions for detecting an external control signal is detected in the location (steps 610 and 710) (see *Specification*, page 14, lines 20-24 and page 15, lines 4-16; and Figures 4, 6 and 7). The external control signal contains an encoded command that identifies settings for the mobile communications device (see *Specification*, page 12, lines 27-32). The computer program product provides instructions for

identifying the settings in the external control signal to form identified settings (see *Specification*, page 14, lines 24-28). The identified settings define features in the profile that comply with the policy for mobile communications device usage for the location. The computer program product provides instructions for activating the profile with the identified settings to form an active profile (see *Specification*, page 4, lines 10-13). The features in the profile control attributes of the mobile communications device and were not defined in the profile prior to detecting the external control signal (see *Specification*, page 11, line 17 through page 13, line 6 and page 14, lines 24-26). The computer program product provides instructions for maintaining the active profile while the external control signal is detected (see *Specification*, page 13, lines 7-14 and page 15, lines 4-16; and **Figures 4 and 7**).

**I. CLAIM 2 - DEPENDENT**

The subject matter of claim 2, which depends from claim 1, is directed to a method for restoring the current profile when reception of the external control signal is discontinued (see *Specification*, page 15, lines 4-16 and **Figure 7**).

**J. CLAIM 6 - DEPENDENT**

The subject matter of claim 6, which depends from claim 5, is directed to a method wherein a prior profile is deactivated when the profile is activated and further comprising restoring the prior profile when an absence of the external control signal is detected (see *Specification*, page 15, lines 4-16 and **Figure 7**).

**K. CLAIM 7 - DEPENDENT**

The subject matter of claim 7, which depends from claim 5, is directed to a method for displaying an icon (550, 580) indicating that the profile has been activated, wherein the icon is displayed while the profile is active (see *Specification*, page 13, line 25 through page 14, line 30 and page 15, lines 4-16; and **Figures 5, 6 and 7**).

**L. CLAIM 16 - DEPENDENT**

The subject matter of claim 16, which depends from claim 5, is directed to a method for an emergency phone call is always allowed by the profile (see *Specification*, page 11, lines 24-28).

**GROUND OF REJECTION TO BE REVIEWED ON APPEAL****A. GROUND OF REJECTION 1 (Claims 1-28)**

Claims 1-28 are finally rejected under 35 U.S.C. § 102(e) as being allegedly anticipated by *Sawada* (U.S. Patent Number 6,421,544 B1). Only claims 1-10, 12-16, 18, 19, 21, 22, 24, 25, 27 and 28 stand finally rejected and are on appeal since claims 11, 17, 20, 23 and 26 are canceled.

### ARGUMENT

#### **A. GROUND OF REJECTION 1 (Claims 1-28)**

Claims 1-28 are rejected under 35 U.S.C. § 102(e) as being allegedly anticipated by *Sawada* (U.S. Patent Number 6,421,544 B1). Only claims 1-10, 12-16, 18, 19, 21, 22, 24, 25, 27 and 28 stand finally rejected and are on appeal since claims 11, 17, 20, 23 and 26 are canceled. This rejection is respectfully traversed.

##### **A.1. Claims 1, 18, 21 and 24**

As to independent claims 1, 18, 21 and 24, the Final Office Action states:

Regarding claims 1, 21 and 24, Sawada discloses a method in a mobile communications device for activating a selected profile (column 1, lines 6-10), the method comprising:

- detecting an external control signal transmitted transmitter location, wherein the external control signal contains an encoded command (FIG. 4 and column 13, lines 23-26) [The CPU 18 detects the control signal from the doorway base station 5 the signal includes the command to change the mode of the mobile station];

- decoding the encoded command to define features in the profile, wherein the features are identified by a group of settings contained in the encoded command and wherein the features were not defined in the profile prior to detecting the external control signal (FIG. 4 and column 13, lines 26-29) [The CPU 18 detects the present mode of the mobile phone, the mode was not defined in the profile prior to enter the use inhibit area 3, the control signal detecting by the CPU commands a change in status];

- activating the profile, wherein the features in the profile control attributes of the mobile communication device, and wherein the profile implements a policy of mobile communications device usage for the location and replaces a current profile for the mobile communication device (FIG. 4 and column 13, lines 29-37) [The CPU 18 causes features to be activated when the CPU 18 receives the control signal regarding the change of the state that the mobile was to the proper mode for the use in that inhibit area 3];

- maintaining the profile only while the external control signal continues to be detected (FIG. 4 and column 13, lines 37-44) [The CPU 18 maintains the call inhibit mode until the CPU 18 detects another control signal from the doorway base station 5].

...

Regarding claim(s) 18 and 19, Sawada discloses all the limitations of claim(s) 18 and 19 as stated in claim(s) 1 and 17 rejections and furthermore Sawada discloses a bus system (1 on FIG. 2); a communications unit connected to the bus system (12 on FIG. 2); a memory connected to bus system (FIG. 2 and column 9, lines 38-40); and a processing unit (CPU 18 on FIG 2).

Final Office Action dated February 24, 2005, pages 2-6.

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Claim 1, which is representative of the other rejected independent claims 18, 21 and 24 with regard to similarly recited subject matter, reads as follows:

1. A method in a mobile communications device for activating a profile, the method comprising:
  - detecting an external control signal transmitted from a transmitter in a location, wherein the external control signal contains an encoded command;
  - decoding the encoded command to define features in the profile, wherein the features are identified by a group of settings contained in the encoded command and wherein the features were not defined in the profile prior to detecting the external control signal;
  - activating the profile, wherein the features in the profile control attributes of the mobile communication device, and wherein the profile implements a policy of mobile communications device usage for the location and replaces a current profile for the mobile communications device; and
  - maintaining the profile only while the external control signal continues to be detected. (emphasis added)

A prior art reference anticipates the claimed invention under 35 U.S.C. § 102 only if every element of a claimed invention is identically shown in that single reference, arranged as they are in the claims. *In re Bond*, 910 F.2d 831, 832, 15 U.S.P.Q.2d 1566, 1567 (Fed. Cir. 1990). All limitations of the claimed invention must be considered when determining patentability. *In re Lowry*, 32 F.3d 1579, 1582, 32 U.S.P.Q.2d 1031, 1034 (Fed. Cir. 1994). Anticipation focuses on whether a claim reads on the product or process a prior art reference discloses, not on what the reference broadly teaches. *Kalman v. Kimberly-Clark Corp.*, 713 F.2d 760, 218 U.S.P.Q. 781 (Fed. Cir. 1983). Appellants respectfully submit that *Sawada* does not identically show every element of the claimed invention arranged as they are in the claims. Specifically, *Sawada* does not teach or suggest “decoding the encoded command to define features in the profile, wherein the features are identified by a group of settings contained in the encoded command and wherein the features were not defined in the profile prior to detecting the external control signal.”

*Sawada* is directed to a radio communication system control that limits the use of radio communication terminals depending on circumstances. In *Sawada*, the radio communication terminal includes four operation modes: standby, busy, sleep #1, and sleep #2. These modes are listed in a present mode table 22a. Responsive to receiving a control signal, the CPU of the radio communication terminal detects the present mode using the present mode table. If the present mode is standby or busy, it is assumed that the user has entered the use inhibit area and the CPU changes the present mode to either sleep #1 or sleep #2. When the radio communication terminal is

in sleep #1 or sleep #2 and the CPU receives the control signal, the CPU determines that the user is leaving the use inhibit area and changes the operation mode to standby. In *Sawada*, the operation modes are already defined in a radio communication device. Figure 3A of *Sawada* lists the 4 modes defined in the radio communication terminal and a flag indicating the current mode of operation. The control signal merely triggers the CPU to change the mode of operation to standby, sleep #1, or sleep #2. *Sawada* does not teach or suggest "decoding the encoded command to define features in the profile, wherein the features are identified by a group of settings contained in the encoded command and wherein the features were not defined in the profile prior to detecting the external control signal," as recited in claims 1, 18, 21 and 24.

To the contrary, the present invention identifies features using a group of settings in an encoded command and defines the features in a profile so that the profile includes defined features that were not previously defined prior to detecting the external control signal. The group of settings defines the features for the profile. The features in the profile control attributes of the mobile communication device, such as the ringer volume or duration, vibration, conversation mode, conversation duration, and informational messages. The features in the profile are not defined prior to detecting the external control signal. The profile is activated with the defined features identified by the group of settings contained in the encoded command. *Sawada*'s "mode" is similar to the "profile" in the present invention. *Sawada* may teach activating a previously defined profile, but *Sawada* does not teach or suggest "decoding the encoded command to define features in the profile, wherein the features are identified by a group of settings contained in the encoded command and wherein the features were not defined in the profile prior to detecting the external control signal." There is an additional step in the present invention to define the features of the profile. For example, the encoded command of the present invention may define features such as, vibrate, display a message, and disable the conversation mode in an "In-Public-Use" profile. *Sawada* does not teach or suggest the features as recited in claims 1, 18, 21 and 24.

The Office Action refers to the following portion of *Sawada* in the rejection of independent claims 1, 18, 21 and 24:

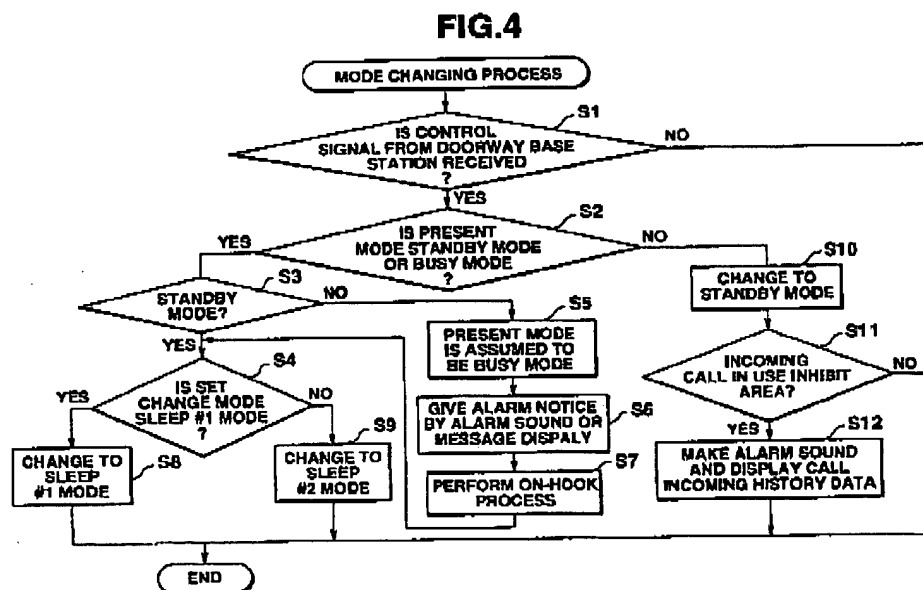
As described above, with the PHS terminal 1 according to the first embodiment, the CPU 18, receiving the control signal from the doorway base station 5, detects the present mode, by referring to the present mode table 22a. If the present mode is the call enable mode, that is, the busy mode or the standby mode, it is assumed that the user has entered the use inhibit area 3. Especially in the case of the busy mode, the CPU 18 causes

the speaker to make an alarm sound and the display section to display an alarm message that the user has entered the use inhibit area 3. Thereafter, the CPU 18 detects the change destination mode by referring to the user-specified mode table 22b, changes the mode of the PHS terminal 1 to the sleep #1 mode or sleep #2 mode, then performs incoming call receiving control and call originating control in the changed mode. In the case where the present mode is the call inhibit mode, that is, the sleep #1 mode or sleep #2 mode, when the CPU 18 receives the control signal, the CPU 18 determines that the user leaves the use inhibit area 3 and returns the mode of the PHS terminal to the standby mode and then performs incoming call receiving control and call originating control in the standby mode.

*Sawada*, column 13, lines 23-44. (emphasis added)

This portion of *Sawada* teaches that the control signal merely triggers the CPU to change the mode of operation. *Sawada* does not teach or suggest "decoding the encoded command to define features in the profile, wherein the features are identified by a group of settings contained in the encoded command and wherein the features were not defined in the profile prior to detecting the external control signal," as recited in claims 1, 18, 21 and 24.

Additionally, the Office Action refers to Figure 4 of *Sawada* in the rejection of independent claims 1, 18, 21 and 24:



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Figure 4 also shows the mode changing process. If the present mode is "standby" or "busy", the CPU changes the mode to "sleep #1" or "sleep #2" based on the flags set in tables shown in Figures 3A and 3B of *Sawada*. If the present mode is "sleep #1" or "sleep #2", the CPU changes the mode to "standby". *Sawada* does not teach or suggest "decoding the encoded command to define features in the profile, wherein the features are identified by a group of settings contained in the encoded command and wherein the features were not defined in the profile prior to detecting the external control signal," as recited in claims 1, 18, 21 and 24.

Further, *Sawada* teaches in an alternate embodiment that the control signal may specify the operation mode, such as "sleep #1", "sleep #2" or "standby". Therefore, *Sawada* may teach that a control signal can specify a previously defined profile to activate, but *Sawada* does not teach or suggest decoding an encoded command in an external control signal to define features in the profile. In addition, *Sawada* does not teach or suggest "decoding the encoded command to define features in the profile, wherein the features are identified by a group of settings contained in the encoded command and wherein the features were not defined in the profile prior to detecting the external control signal," as recited in claims 1, 18, 21 and 24.

In view of the above, Appellants respectfully submit that *Sawada* does not teach each and every feature of independent claims 1, 18, 21 and 24, as is required under 35 U.S.C § 102(a). Additionally, *Sawada* does not teach each and every feature of dependent claims 2-4 and 27 at least by virtue of their dependency on claim 1. Accordingly, Appellants respectfully request withdrawal of the rejection of claims 1-4, 18, 21, 24 and 27 under 35 U.S.C § 102(a).

#### A.2. Claims 5, 19, 22 and 25

As to independent claims 5, 19, 22 and 25, the Final Office Action states:

Regarding claim(s) 5, 22 and 25, *Sawada* discloses all the limitations of claim(s) 5 and 22 as stated in claim(s) 1 rejection above and furthermore *Sawada* discloses identifying the setting in the external control signal to form identified settings, wherein the identified setting define features in the profile that comply with the policy for mobile communications device usage for the location (FIG. 4 and column 13, lines 29-37) [The CPU 18 detects the control signal from the doorway base station 5 as command to change the setting the mobile communication from the setting it was to the setting request from the external control signal]. ...

Regarding claim(s) 18 and 19, *Sawada* discloses all the limitations of claim(s) 18 and 19 as stated in claim(s) 1 and 17 rejections and furthermore *Sawada* discloses a bus system (1 on FIG. 2); a communications unit connected to the bus system (12 on FIG. 2);

a memory connected to bus system (FIG. 2 and column 9, lines 38-40); and a processing unit (CPU 18 on FIG 2).

Final Office Action dated February 24, 2005, pages 4-6.

Claim 5, which is representative of the other rejected independent claim 19, 22 and 25 with regard to similarly recited subject matter, reads as follows:

5. A method in a mobile communications device for activating a profile when the mobile communications device is located in a location with a policy for mobile communications device usage, the method comprising:

detecting an external control signal in the location, wherein the external control signal contains an encoded command that identifies settings for the mobile communications device;

identifying the settings in the external control signal to form identified settings, wherein the identified settings define features in the profile that comply with the policy for mobile communications device usage for the location;

activating the profile with the identified settings to form an active profile, wherein the features in the profile control attributes of the mobile communications device and were not defined in the profile prior to detecting the external control signal; and

maintaining the active profile while the external control signal is detected.

(emphasis added)

Appellants respectfully submit that *Sawada* does not identically show every element of the claimed invention arranged as they are in the claims. Specifically, *Sawada* does not teach or suggest “identifying the settings in the external control signal to form identified settings, wherein the identified settings define features in the profile that comply with the policy for mobile communications device usage for the location” and that “the features in the profile control attributes of the mobile communications device and were not defined in the profile prior to detecting the external control signal.”

The Office Action refers to the same portions of *Sawada*, shown and discussed above, in the rejection of independent claims 5, 19, 22 and 25. As stated previously, *Sawada* may teach activating a previously defined profile and specifying a previously defined profile to activate, but *Sawada* does not teach or suggest “identifying the settings in an external control signal that define features in a profile that comply with the policy for mobile communications device usage for the location.” Additionally, claims 5, 19, 22 and 25 recite that the features defined in the profile “control attributes of the mobile communications device and were not defined in the profile prior to detecting the external control signal.” These features also comply with the policy for mobile communications device usage within a location where the mobile communication

device is located. *Sawada* does not teach or suggest each and every element of claims 5, 19, 22 and 25.

In view of the above, Appellants respectfully submit that *Sawada* does not teach each and every feature of independent claims 5, 19, 22 and 25, as is required under 35 U.S.C § 102(a). Additionally, *Sawada* does not teach each and every feature of dependent claims 6-10, 12-16 and 28 at least by virtue of their dependency on claim 5. Accordingly, Appellants respectfully request withdrawal of the rejection of claims 5-10, 12-16, 19, 22, 25 and 28 under 35 U.S.C § 102(a).

#### A.3. Claims 2 and 6

In addition to the above, Appellants respectfully submit that claims 2 and 6 are independently distinguishable from the *Sawada* reference. Claim 2 depends from claim 1 and additionally recites "restoring the current profile when reception of the external control signal is discontinued." Claim 6 depends from claim 5 and additionally recites that "a prior profile is deactivated when the profile is activated" and further comprises "restoring the prior profile when an absence of the external control signal is detected." In the cited portions of *Sawada*, the control signal triggers the CPU 18 to change the mode of operation. Further, *Sawada* only teaches changing to "sleep #1", "sleep #2", and "standby" modes. The *Sawada* reference does not teach or suggest "restoring the prior profile when an absence of the external control signal is detected." To the contrary, if the prior mode was the "busy" mode prior to being changed to the "sleep #1" mode or the "sleep #2" mode, then *Sawada* teaches changing to the "standby" mode. Therefore, claims 2 and 6 are believed distinguished from the cited references.

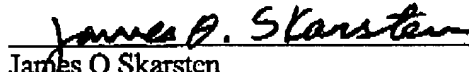
#### A.4. Claim 7

In addition to the above, Appellants respectfully submit that claim 7 is independently distinguishable from the *Sawada* reference. Claim 7 depends from claim 5 and additionally recites "displaying an icon indicating that the profile has been activated, wherein the icon is displayed while the profile is active." In the cited portion of *Sawada* at column 12, lines 21-25, *Sawada* teaches that an alarm message may be displayed when the mode of operation is the "busy" mode and the user enters the use inhibit area. After the alarm, the CPU performs an on-hook process to disconnect the communication channel and the control is passed to step S4,

which determines whether to change to the "sleep #1" or the "sleep #2" mode based on the table in **Figure 3B**. The *Sawada* reference does not teach or suggest "displaying an icon indicating that the profile has been activated, wherein the icon is displayed while the profile is active," as recited in claim 7. Therefore, claim 7 is believed distinguished from the cited references.

#### A.5. Claim 16

In addition to the above, Appellants respectfully submit that claim 16 is independently distinguishable from the *Sawada* reference. Claim 16 depends from claim 5 and additionally recites that "an emergency phone call is always allowed by the profile." In the cited portion of *Sawada* at column 9, lines 50-60, *Sawada* teaches that incoming call history data is stored and after the user leaves the user inhibit area, an alarm notifies the user if there were any incoming calls while the user was in the use inhibit area. The *Sawada* reference does not teach or suggest that "an emergency phone call is always allowed by the profile," as recited in claim 16. Further, *Sawada* does not even mention emergency or 911 calls. Therefore, claim 16 is believed distinguished from the cited references.

  
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**CLAIMS APPENDIX**

The text of the claims involved in the appeal are:

1. A method in a mobile communications device for activating a profile, the method comprising:

detecting an external control signal transmitted from a transmitter in a location, wherein the external control signal contains an encoded command;

decoding the encoded command to define features in the profile, wherein the features are identified by a group of settings contained in the encoded command and wherein the features were not defined in the profile prior to detecting the external control signal;

activating the profile, wherein the features in the profile control attributes of the mobile communication device, and wherein the profile implements a policy of mobile communications device usage for the location and replaces a current profile for the mobile communications device; and

maintaining the profile only while the external control signal continues to be detected.

2. The method of claim 1 further comprising:

restoring the current profile when reception of the external control signal is discontinued.

3. The method of claim 1, wherein the attributes disable a call from being received by a user of the mobile communications device.



4. The method of claim 1, wherein the attributes are at least one of a ringer mode, a ringer volume, a ringer duration, a vibration mode, a conversation mode, a conversation duration, and an informational message, and wherein the conversation mode enables or disables a call from being received by a user, the ringer mode turns a ringer on or off, and the vibration mode turns a vibration on or off.

5. A method in a mobile communications device for activating a profile when the mobile communications device is located in a location with a policy for mobile communications device usage, the method comprising:

detecting an external control signal in the location, wherein the external control signal contains an encoded command that identifies settings for the mobile communications device;

identifying the settings in the external control signal to form identified settings, wherein the identified settings define features in the profile that comply with the policy for mobile communications device usage for the location;

activating the profile with the identified settings to form an active profile, wherein the features in the profile control attributes of the mobile communications device and were not defined in the profile prior to detecting the external control signal; and

maintaining the active profile while the external control signal is detected.

6. The method of claim 5, wherein a prior profile is deactivated when the profile is activated and further comprising:

restoring the prior profile when an absence of the external control signal is detected.

7. The method of claim 5 further comprising:  
displaying an icon indicating that the profile has been activated, wherein the icon is displayed while the profile is active.
8. The method of claim 5, wherein the location is a public establishment, a home, an office, or a government building.
9. The method of claim 5, wherein the external control signal is broadcasted from a transmitter.
10. The method of claim 9, wherein the transmitter is programmed by a control unit to broadcast the external control signal.
12. The method of claim 5, wherein the mobile communications device contains circuitry that decodes the external control signal.
13. The method of claim 5, wherein the attributes are at least one of a ringer mode, a ringer volume, a ringer duration, a vibration mode, conversation mode, conversation duration, and informational messages, and wherein the conversation mode enables or disables a call from being received by the user, the ringer mode turns a ringer on or off, and the vibration mode turns a vibration on or off.

14. The method of claim 5, wherein the mobile communications device is one of a mobile phone, a personal digital assistant, a two way pager, or a laptop computer.

15. The method of claim 5, wherein the external control signal is one of a radio frequency signal, an infrared signal, or an ultrasonic signal.

16. The method of claim 5, wherein an emergency phone call is always allowed by the profile.

18. A mobile communications device comprising:

a bus system;

a communications unit connected to the bus system; a memory connected to the bus system, wherein the memory includes a set of instructions; and

a processing unit connected to the bus system, wherein the processing unit executes the set of instructions to detect an external control signal transmitted from a transmitter in a location, wherein the external control signal contains an encoded command; decode the encoded command to define features in a profile, wherein the features are identified by a group of settings contained in the encoded command and wherein the features were not defined in the profile prior to detecting the external control signal; activate the profile, wherein the features in the profile control attributes of the mobile communication device, and wherein the profile implements a policy of mobile communications device usage for the location and replaces a current profile for the mobile communications device; and maintain the profile only while the external control signal continues to be detected.

19. A mobile communications device comprising:

a bus system;

a communications unit connected to the bus system; a memory connected to the bus system, wherein the memory includes a set of instructions; and

a processing unit connected to the bus system, wherein the processing unit executes the set of instructions to detect an external control signal in a location, wherein the external control signal contains an encoded command that identifies settings for a mobile communications device; identify the settings in the external control signal to form identified settings, wherein the identified settings define features in a profile that comply with a policy for mobile communications device usage for the location; activate the profile with the identified settings to form an active profile, wherein the features in the profile control attributes of the mobile communications device and were not defined in the profile prior to detecting the external control signal; and maintain the active profile while the external control signal is detected.

21. A mobile communications device for activating a profile, the mobile communications device comprising:

detecting means for detecting an external control signal transmitted from a transmitter in a location, wherein the external control signal contains an encoded command;

decoding means for decoding the encoded command to define features in the profile, wherein the features are identified by a group of settings contained in the encoded command and wherein the features were not defined in the profile prior to detecting the external control signal;

activating means for activating the profile, wherein the features in the profile control

attributes of the mobile communication device, and wherein the profile implements a policy of mobile communications device usage for the location and replaces a current profile for the mobile communications device; and

maintaining means for maintaining the profile only while the external control signal continues to be detected.

22. A mobile communications device for activating a profile when the mobile communications device is located in a location with a policy for mobile communications device usage, the mobile communications device comprising:

detecting means for detecting an external control signal in the location, wherein the external control signal contains an encoded command that identifies settings for the mobile communications device;

identifying means for identifying the settings in the external control signal to form identified settings, wherein the identified settings define features in the profile that comply with the policy for mobile communications device usage for the location;

activating means for activating the profile with the identified settings to form an active profile, wherein the features in the profile control attributes of the mobile communications device and were not defined in the profile prior to detecting the external control signal; and

maintaining means for maintaining the active profile while the external control signal is detected.

24. A computer program product in a computer readable medium for activating a profile, the computer program product comprising:

first instructions for detecting an external control signal transmitted from a transmitter in a location, wherein the external control signal contains an encoded command;

second instructions for decoding the encoded command to define features in the profile, wherein the features are identified by a group of settings contained in the encoded command and wherein the features were not defined in the profile prior to detecting the external control signal;

third instructions for activating the profile, wherein the features in the profile control attributes of the mobile communication device, and wherein the profile implements a policy of mobile communications device usage for the location and replaces a current profile for the mobile communications device; and

fourth instructions for maintaining the profile only while the external control signal continues to be detected.

25. A computer program product in a computer readable medium for activating a profile when a mobile communications device is located in a location with a policy for mobile communications device usage, the computer program product comprising:

first instructions for detecting an external control signal in the location, wherein the external control signal contains an encoded command that identifies settings for the mobile communications device;

second instructions for identifying the settings in the external control signal to form identified settings, wherein the identified settings define features in the profile that comply with the policy for mobile communications device usage for the location;

third instructions for activating the profile with the identified settings to form an active profile, wherein the features in the profile control attributes of the mobile communications device

and were not defined in the profile prior to detecting the external control signal; and

fourth instructions for maintaining the active profile while the external control signal is detected.

27. The method of claim 1, wherein the profile cannot be activated or modified by a user of the mobile communications device.

28. The method of claim 5, wherein the profile cannot be activated or modified by a user of the mobile communications device.

**EVIDENCE APPENDIX**

There is no evidence to be presented.





**RELATED PROCEEDINGS APPENDIX**

There are no related proceedings.